

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KATE SPADE LLC,

Plaintiff/Counterclaim-Defendant,

vs.

12 CIV 9260 (MGC)

SATURDAYS SURF LLC,

ECF Case

Defendant/Counterclaim-Plaintiff.

**STIPULATION AND ORDER CONSOLIDATING HEARING ON PRELIMINARY
INJUNCTION WITH TRIAL PURSUANT TO FED. R. CIV. P. 65(a)(2)**

IT IS HEREBY STIPULATED by and between counsel for Kate Spade LLC ("Kate Spade") and counsel for Saturdays Surf LLC ("Saturdays Surf") as follows:

1. The preliminary injunction hearing in this matter, originally scheduled for April 18, 2013, shall be consolidated with a trial on the merits pursuant to Rule 65(a)(2) of the Federal Rules of Civil Procedure.

2. The trial shall proceed as a bench trial before the Honorable Miriam Goldman Cedarbaum and shall take place on April 22, 23, and 25, 2013. The Court shall impose time limits to ensure that the trial is completed within these three days. Kate Spade LLC shall be entitled to present its case first since it is the plaintiff in this matter.

3. The parties have disclosed the following trial witnesses: for plaintiff, Kyle Andrew, Theresa Canning Zast, Gerald Ford, Craig Leavitt, Kevin Parks and Kate Schrader; for defendant: Morgan Collett and Robert Klein. Each party reserves the right to call the other

party's trial witnesses in its case-in-chief. The parties may not call any other witnesses at trial, whether in their case-in-chief or on rebuttal.

4. Saturdays Surf hereby waives its request for a jury trial.

5. The only relief that Kate Spade may pursue at trial is its request for declaratory relief as set forth in the Complaint in this action at paragraphs A and B of the Prayer for Relief.

6. The only relief that Saturdays Surf's may pursue at trial is its request for injunctive relief as set forth in the Counterclaim in this action at paragraph A(i)-(iv) and with respect to Subparagraph (vi), injunctive relief insofar as the injunction would prohibit Kate Spade from unfairly competing with Saturdays or falsely designating goods or services, paragraph B, and paragraph E of the Prayer for Relief.

7. Saturdays Surf hereby dismisses with prejudice all of its claims for monetary relief (including but not limited to profits, actual damages, interest and exemplary damages) and its state law claims set forth as Counts V and VI of Saturdays Surf's Counterclaims.

8. Kate Spade and Saturdays Surf each hereby waive any claim for recovery of attorneys' fees. Each party shall bear its own attorneys' fees and costs.

9. Discovery shall proceed on the same schedule, and with the same scope, as set forth in the stipulation and order for expedited discovery filed February 14, 2013, except as otherwise agreed to by the parties or the Court.

10. All documents and things produced in discovery in this action are hereby deemed to be authentic under Rule 901 of the Federal Rules of Evidence. The parties expressly reserve all other evidentiary objections for trial.

11. The parties shall file a Joint Pretrial Order in accordance with Rule 5 of the Court's Individual Practices by April 18, 2013.

Dated: New York, New York
April 3, 2013

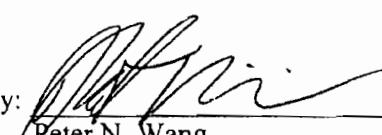
DEBEVOISE & PLIMPTON LLP

By: 

David H. Bernstein
Megan K. Bannigan
Rayna Feldman
919 Third Avenue
New York, New York 10022
(212) 909-6696
dhbernstein@debevoise.com
mkbannigan@debevoise.com
rsfeldman@debevoise.com

*Attorneys for Plaintiff/Counterclaim-
Defendant KATE SPADE LLC*

FOLEY & LARDNER LLP

By: 

Peter N. Wang
Robert S. Weisbein
Andrew Baum
Adam G. Pence
90 Park Avenue
New York, NY 10016-1314
(212) 682-7474
pwang@foley.com
rweisbein@foley.com
abaum@foley.com
apence@foley.com

*Attorneys for Defendant/Counterclaim-
Plaintiff SATURDAYS SURF LLC*

SO ORDERED,

this 5th day of April, 2013.


Honorable Miriam Goldman Cedarbaum
United States District Judge